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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,047	09/21/2005	Peter Stierle	3429	6199
7590	07/25/2008		EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			LOW, LINDSAY M	
		ART UNIT	PAPER NUMBER	
		3721		
			MAIL DATE	DELIVERY MODE
			07/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/550,047	STIERLE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LINDSAY M. LOW	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 April 2008.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 and 13-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. This action is in response to applicant's RCE received on March 31<sup>st</sup>, 2008.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 20, it is unclear how a direction (i.e. a line) extends over (i.e. covers) the entire cooling conduit. In addition, it is unclear what is meant by "an entire extension." For example, is the "entire extension" the cooling conduit itself, a separate member that extends from the cooling conduit, or a section of the cooling conduit? Hereinafter, it is assumed that the "entire extension" refers to a section of the cooling conduit. Regarding claim 22, it is unclear what is meant by the phrase "nonintegral manner."

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

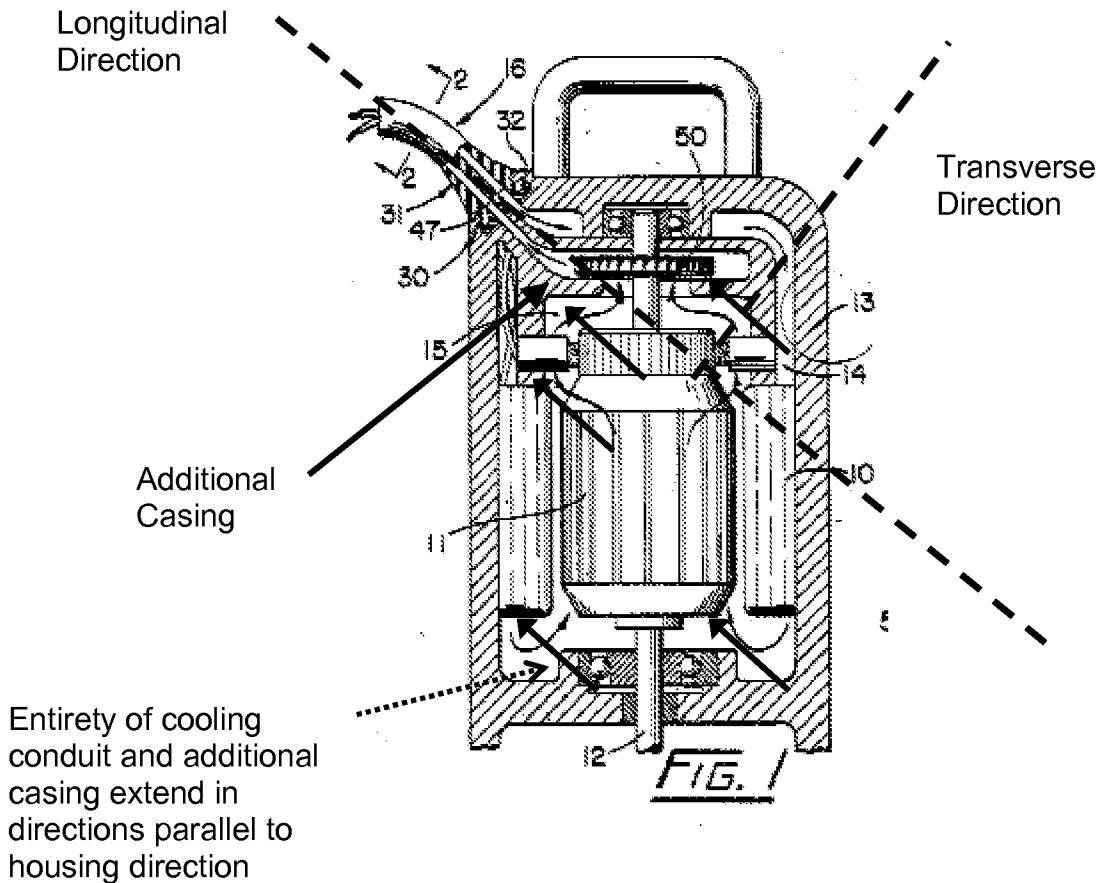
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9, 11, 13-18, 19-23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Modrey (2,776,385).

Modrey discloses the same invention including a motor 11, housing 13, intake nozzle in the vicinity of 32, and cooling conduits abut the nozzle (see Fig. 1). It should be noted that the housing is integrally formed with a support plate, outer wall, cover plate, and an additional casing (see Fig. 1). Regarding claim 9, the openings are shown at 61 and 62. Regarding claim 11, since the openings are used as an inlet or an outlet, they are deemed to be differently designed. It should be noted that the intake nozzle (in the vicinity of 32) extends in a longitudinal direction of the housing (designated below). The cooling conduit (in the vicinity of 15) is separated from the housing in a direction that is transverse to the longitudinal direction by an additional casing. The casing is located between the intake nozzle and the housing in the transverse direction. Note that the additional casing is located between the cooling conduit (in the vicinity of 15) and the housing 13. Regarding claim 18, note that the additional casing is formed as an extension of the intake nozzle (in the vicinity of 32) as can be seen in Fig. 1. The extension is along the longitudinal axis.

Regarding new claims 19-23 and 25, the longitudinal direction of the intake nozzle is the same direction as the longitudinal direction of the housing that has been designated below. A longitudinal direction of the cooling conduit (also designated below) extends over an extension of the cooling conduit (section designated below) in the same direction as the housing direction. Note that the entire cooling conduit and entire additional casing extends in directions parallel to the housing direction. The

additional casing is deemed to be capable of being configured in a nonintegral manner with the housing. The additional casing leads cooling air from the intake valve to the motor housing.



#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385) and Admitted Prior Art.

Modrey fails to disclose a grinder and two differently designed inlet openings. However, these features are admitted prior art since Applicant has not adequately traversed the obviousness of such features, i.e. Applicant has not pointed out the specific reason why they are not obvious. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Modrey's power tool with a grinder in order to facilitate cooling of the grinder.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385) in view of Strozel (5,099,160).

Modrey discloses the same disclosure substantially as claimed except for having two intake nozzles. However, Strozel teaches two intake nozzles 30 for the purpose of allowing an sufficient amount of fluid to reach the motor housing for cooling the drive motor. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second intake valve to Modrey's device for the purpose of allowing a sufficient amount of fluid for cooling the drive motor.

### ***Response to Arguments***

9. Applicant's arguments filed March 31<sup>st</sup>, 2008 have been fully considered and are believed to have been addressed in the above rejection.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./  
Examiner, Art Unit 3721  
/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721

7/17/2008